

THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)	
)	
ANTHONY R. MARTIN,)	Case No.
Debtor.)	
)	
ANTHONY R. MARTIN,)	
)	
Plaintiff,)	
)	
v.)	Adversary Proceeding
)	No.
EMC MORTGAGE CORP.,)	
)	
Defendant.)	
)	

DECISION AND ORDER ON DEFENDANT'S BILL OF COSTS

The defendant's bill of costs is not a motion invoking grounds for imposing all costs and fees on the opposing party. Instead, it is a bill of costs, the vehicle used to claim costs recoverable by any prevailing litigant unless the court has expressly directed that costs are not to be recoverable.

Such costs are awarded under the authority of F.R. Civ. P. 54(d) and within the constraints of 28 U.S.C. § 1920, which "define[s] the full extent of a federal court's power to shift litigation costs absent express statutory authority to go further." West Virginia University Hospitals v. Casey, 499 U.S. 83, 86 (1991). In keeping with the American rule such costs are awarded "sparingly" and should be "given careful scrutiny." Farmer v. Arabian American Oil Co., 379 U.S. 227, 235 (1964). However, "it is clear in this Circuit that, as long as the costs of items for which

a party seeks reimbursement are statutorily authorized, there is a strong presumption in favor of an assessment against the losing party. Sun Ship, Inc. v. Lehman, 655 F.2d 1311 (D.C. Cir. 1981)." Zdunek v. Washington Metro. Area Transit Auth., 100 F.R.D. 689, 692 (D.D.C. 1983).

Allowable costs enumerated in 28 U.S.C. § 1920 are as follows:

A Judge or clerk of any court of the United States may tax as costs the following:

- (1) Fees of the clerk and marshal;
- (2) Fees of the court reporter for all or any part of the stenographic transcript necessarily obtained for use in the case;
- (3) Fees and disbursements for printing and witnesses;
- (4) Fees for exemplification and copies of papers necessarily obtained for use in the case;
- (5) Docket fees under section 1923 of this title;
- (6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.

A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.

1. Photocopying

Fees for copying of papers "necessarily obtained for use in the case" are taxable as costs under 28 U.S.C. 1920(4). Fees generally will not be allowed, however, "for the convenience, preparation, research, or records of counsel." See Fressell v. AT&T Technologies, 103 F.R.D. 111, 115 (N.D. Ga. 1984).

The defendant's copying costs are not explained in the bill of costs. The defendant has provided no detail of these copying costs such as which pleadings or exhibits were copied, the number of copies, or the cost per page, or why they were copied (e.g., whether these were merely copies for the records of counsel). Under

the circumstances, the court is unable to determine whether the costs were necessary or reasonable. Absent such a determination, the court is unable to approve the copying fees at this time. See Robertson v. McCloskey, 121 F.R.D. 131, 134 (D.D.C. 1988); Ortega v. City of Kansas City, 659 F. Supp. 1201, 1218-19 (D. Kan. 1987); Fressell v. AT&T Technologies, 103 F.R.D. at 115. However, the court will allow the defendant the opportunity to supplement its application with more detailed information on these copying costs.

2. Attorney Fees, Telephone Charges, Facsimile Charges, Postage Charges, and Local Transportation Charges

The court will deny the defendant's request to recover as costs the following items: attorney fees, telephone charges, facsimile charges, postage charges, and local transportation charges. These sort of expenses are not generally taxable as costs because they are not specifically listed in 28 U.S.C. § 1920. See Zdunek, 100 F.R.D. at 692; Postow v. Oriental Bldg. Ass'n, 455 F. Supp. 781, 792 (D.D.C. 1978); Richerson v. Jones, 506 F. Supp. 1259, 1267 (E.D. Pa. 1981). The courts reason that these out-of-pocket costs "are general expenses incurred during the course of every lawsuit and they are not taxable costs." Zdunek, 100 F.R.D. at 692. Accordingly, the defendant must bear the burden of these costs.

It is thus

ORDERED that the defendant's bill of costs is DENIED in total, and the defendant is granted leave within 21 days of entry of this order to supplement its bill of costs in accordance with this decision.

Dated: October 2, 1998

S. Martin Teel, Jr.
United States Bankruptcy Judge

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